

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

IN THE MATTER OF FEDERAL-STATE	)	CC DOCKET NO. 96-45
JOINT BOARD ON UNIVERSAL	)	
SERVICE	)	REPLY COMMENTS OF UNITED STATES
	)	CELLULAR CORPORATION ON REVIEW
	)	OF THE DEFINITION OF UNIVERSAL
	)	SERVICE
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**I. INTRODUCTION**

United States Cellular Corporation (“USCC”) replies to the 35 sets of Comments filed on November 5, 2001 in this Docket on the review of the definition of universal service. The majority of parties commenting, like USCC, recommended against an expansion of the definition of universal service. These comments present a solid basis for preservation of the current definition. As explained herein, those parties that advocated an expansion of the definition of universal service, or urged other action on issues not raised by the Public Notice<sup>1</sup> should be disregarded by the Commission.

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<sup>1</sup> *Federal-State Joint Board on Universal Service Seeks Comment on Review of the Definition of Universal Service*, CC Docket No. 96-45, Public Notice, FCC 01-J-1 (rel. Aug. 21, 2001), 66 Fed. Reg. 46461 (Sept. 5, 2001) (“Public Notice”).

## **II. ARGUMENT**

### **A. Expanding the Definition of Universal Service is Outweighed by the Cost of Doing So At This Time.**

Of the 35 parties that submitted comments, the majority recommended against changing the current definition of services supported by federal universal service funds. These parties included government customers, state public service commissions and the vast majority of companies that provide telecommunications services in the United States.<sup>2</sup> In addition, industry groups<sup>3</sup> and consumers<sup>4</sup> have opposed including additional core services in the universal service program. Clearly, the cost of expanding the definition of universal service to require the provision of high-speed, or broadband, Internet access services is prohibitive, according to these commentors. For instance, Qwest Communications International estimated that it would cost approximately \$2 billion to offer DSL (Digital Subscriber Line) service areas in only four of its states (Colorado, South Dakota, Washington and Wyoming) (Qwest Comments (p. 2)). A report provided to the Commission by the Converging Industries Research Foundation (“CIRF”) showed that providing broadband services to 100% of rural lines would increase current costs by \$63 per month per rural line, even if deployed over a 20-year period (CIRF comments, Figure 1). By any measure, mandating the provision of broadband technologies nationwide will be extremely costly and will force expansion of the size of the universal service fund pool. In turn, the price of telecommunications services for all consumers would increase significantly.<sup>5</sup>

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<sup>2</sup> The General Services Administration, the Maryland Public Service Commission, the Illinois Commerce Commission, WorldCom Inc., the Verizon Telephone Companies, Sprint Corporation, AT&T Wireless Services, Inc., United States Cellular Corporation, SBC Communications, Inc., Qwest Communications International, Inc., Verizon Wireless, AT&T Corporation, Bell South Corporation.

<sup>3</sup> The Competitive Universal Service Coalition, The Cellular Telecommunications and Internet Association, the United States Telecom Association.

<sup>4</sup> The General Services Administration, the Ad Hoc Telecommunications User Committee, and ACUTA, Inc.: The Association for Telecommunications Professionals in Higher Education and NACUBO: The National Association of College and University Business Officers.

<sup>5</sup> See Comments of Ad Hoc Telecommunications User’s Committee (p. 2). ACUTA and NACUBO strongly cautioned “that any alteration to the universal service program should not increase costs to end users.” (ACUTA/NACUBO Comments, p. 3).

Customers of wireless providers, such as USCC and long distance providers, should not be asked to bear increased costs to cover an inevitable rise in the universal service fund size if the fund must cover more services. Covering the cost of today's fund has become increasingly more burdensome to consumers, as it is. For instance, AT&T Corporation recently increased its universal connectivity charge from 9.9% to 11.5% of customers' intrastate and international service charges in order to recover the company's contribution to the federal universal service fund.<sup>6</sup>

Regulatory action which will increase the size of tomorrow's USF fund will only compound the difficulties of satisfying today's demands for contributions to the federal universal service fund. No comments provided a compelling reason for such action.

**B. Adding A Soft Dial Tone Requirement Would Preclude Wireless Carrier Participation in Providing Universal Service.**

Several parties urge that the definition of universal service also include soft dial tone, which is a service only available from a landline central office.<sup>7</sup> None adequately address whether this service satisfies the criteria enumerated in 47 U.S.C. § 254(c)(1)(A-D). No cost estimates of including this service were included.

The issue raised by soft dial tone connectivity is grounded in public safety concerns about ubiquitous access to 911 for emergencies. Wireless operators technically cannot provide soft dial tone service, which allows for a continuous connection from a customer to a central office for 911 purposes, even when local phone service has not been disconnected. However, providing such connectivity from a wireless handset is possible but does not constitute "soft dial tone." The issue of providing access to 911 from wireless phones has been, and continues to be, the subject of debate in other ongoing proceedings at the Commission.<sup>8</sup> Therefore, the issue of

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<sup>6</sup> See *Telecommunications Reports Daily*, January 2, 2002.

<sup>7</sup> The United States Conference of Catholic Bishops, the State of California and the California Public Utilities Commission, GV&W Consulting, the Iowa Utility Board and Texas 911 Agencies.

<sup>8</sup> See i.e., *In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, FCC 01-175, Further Notice of Proposed Rulemaking, CC Docket No. 94-102, RM-8143 (released May 25, 2001).

ubiquitous 911 connectivity cannot be resolved fully in this proceeding. Adding a soft dial tone requirement would only serve the purpose of excluding wireless carriers from USF eligibility. It would not resolve the issues of wireless 911 access.

The Commission can address the public safety concerns raised by the issue of automatic access to 911 by other means, depending upon the type of carrier involved. Including soft dial tone within the definition of supported universal services is not the solution to these concerns.

**C. Equal Access Should Not be Added to the Definition of Universal Service.**

Several parties maintain that equal access should be a mandated service for eligible telecommunications carriers (ETCs).<sup>9</sup> This viewpoint, again, ignores the differences between the provisions of wireless and wireline service. These differences do not affect the provision of voicegrade service connectivity, which is the critical element of universal service.

The Commission did not ask for comment on whether equal access should be included in the list of supported services. Congress has specified that wireless carriers do not have to offer equal access unless the Commission deems it necessary. 47 U.S.C. § 332(c)(8). The Commission clearly does not view equal access as necessary for wireless customers or it would have required wireless providers to provide equal access. Requiring them to do so in order to be eligible for ETC status would be inconsistent with 47 U.S.C. § 332(c)(8) and Commission policy and would effectively preclude wireless participation in providing universal service. Those urging equal access (for instance, the Montana Universal Service Task Force (“MUST”)), appear more motivated by a desire to erect barriers to competitive eligible telecommunications carriers than by a wish to truly benefit customers. MUST’s comments suggest that wireless ETCs receive a windfall by receiving universal service funds even though they do not provide equal access. This is nonsense because wireless ETCs receive the same level of subsidy wireline

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<sup>9</sup> The National Telephone Cooperative Association, The Montana Universal Service Task Force, Organization for the Promotion and Advancement of Small Telecommunications Companies, Nebraska Rural Independent Companies.

providers receive to provide the same core services. MUST mischaracterizes competitive neutrality as an opportunity for “windfalls.”

Commentors such as MUST refuse to accept the preeminent goal of Congress and this Commission to provide competition in the telecommunications industry. This goal is not inconsistent with providing universal service. Indeed, this Commission and other state commissions<sup>10</sup> have recognized that authorizing additional ETCs promotes competition in rural areas, thereby expanding universal service and allowing rural customers to have greater choice, similar to customers in urban areas. Without access to the same level of subsidies as incumbent landline carriers, new providers simply cannot compete.

This Commission has previously stated:

We believe it is unreasonable to expect an unsupported carrier to enter a high-cost market and provide a service that its competitor already provides at a substantially supported price. If new entrants are not provided with the same opportunity to receive universal service support as the incumbent LEC, such carriers will be discouraged from providing service and competition in high-cost areas.<sup>11</sup>

Parties like MUST want to re-define core universal services to forestall wireless competitors from entering their incumbent markets. This should not be allowed. Competition and customer choice should be allowed to define ultimately the services customers want. USCC endorses the analysis presented by the Competitive Universal Service Coalition, which advocates revising the current definition of universal service to eliminate constraints based on existing technologies and rate structures or industry organization. Wireless carriers offer many levels of packages to customers that bundle local long distance minutes in a way to compete against both landline local exchange carriers and traditional long distance companies. Wireless carriers may offer larger expanded local calling areas and levels of minutes of use from which customers can select

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<sup>10</sup> The Washington Utilities and Transportation Commission.

<sup>11</sup> *See In the matter of Federal State Joint Board on Universal Service*, Western Wireless Corporation Petition for Pre-emption of an Order of the South Dakota Public Utilities Commission, FCC 00-248 CC Docket No. 96-45 (released August 10, 2000) (paragraph 23).

what they desire.<sup>12</sup> Landline companies need not fear competition if they offer what customers want.

Contrary to the claims of rural interests such as MUST, customers are not harmed, but are benefited from having options from which to meet their telecommunications needs.

In light of the Commission's commitment to the promotion of competition, with competitive neutrality as a bedrock principle, services should not be added to the definition of universal service which functionally preclude wireless participation in the USF program.

**D. Issues Unrelated to the Definition of Universal Service Should be Disregarded.**

Numerous parties view this Public Notice as an opportunity to raise issues about universal service, which are unrelated to its definition. For instance, the General Service Administration wants the Commission to revise the universal service charge assessment mechanism. Community Voicemail wants payphone services expanded to benefit the homeless and otherwise disadvantaged persons. The Rural Cellular Association wants to create an additional category of ETC designated as a "rural wireless ETC" to deal with the issue of unfunded mandates. TDS Telecommunications Corporation wants the Commission to revise USF requirements for rural companies and to revise the Commission's rule on insuring that competitive ETCs account for the universal service support they receive.<sup>13</sup>

Other commentors complain about the use of the ILEC cost structure to determine the level of support available to CETC.<sup>14</sup> OPASTCO wants to redefine the definition of a local exchange carrier under 47 U.S.C. § 3(26) to include wireless ETCs. The purpose of the Public Notice was quite focused – to question whether core universal services should be redefined.

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<sup>12</sup> Therefore it would be unnecessary, and harmful to competition, to mandate unlimited local usage at a flat fee.

<sup>13</sup> This issue has been effectively resolved by the Commission's rule, 47 C.F.R. § 54.314(c) which requires that an officer certify that universal service funds are used appropriately.

<sup>14</sup> See i.e., the Comments of Nebraska Rural Independent Companies (p. 7); the Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO") (p. 8); TDS Telecom (p. 18).

Peripheral issues raised by comments of parties which do not deal with this issue of definition should not be resolved by the Commission in this proceeding.<sup>15</sup> They can be dealt with in separate proceedings, if necessary, where the FCC can more directly confront the issues raised, which cannot be resolved simply by redefining the core “universal services.”

### **III. SUMMARY**

USCC, and the majority of commentors, urge the Commission against redefining universal service if to do so would significantly increase the costs of universal service and erect competitive roadblocks to full participation by all interested and able carriers.

Respectfully submitted this \_\_\_\_\_ day of January, 2002.

GRAHAM & DUNN, PC

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<sup>15</sup> In addition, universal service issues raised by discrete constituencies (i.e., the homeless, deaf, or otherwise disadvantaged, or the citizens of Alaska), while valid, cannot be resolved in this narrow proceeding.